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DECISION #15-10

DECISION ON THE PETITION OF ERIC WATSON, 7 ARBORWOOD ROAD

A public hearing of the Acton Board of Appeals was held in the Town Hall on Monday, June 1, 2015 on the Petition of Eric Watson for a **SPECIAL PERMIT** under Section 4.1.8 of the Zoning Bylaws to allow the construction of an addition to a single family residence within the limits of the Floodway Fringe located at 7 Arborwood Road. Map H3, Parcel 24.

Present at the hearing were Jonathan Wagner, Chairman; Richard Fallon, Member; and Suzanne Buckmelter, Alternate Member. Also present were Cheryl Frazier, Board of Appeals Secretary; Roland Bartl, Town Planner; Kristen Guichard, Assistant Town Planner; the Petitioner, and Donald Hoban, the Petitioner's contractor.

Chairman Wagner opened the hearing and read the contents of the file. In addition to the Petition (which included a Site Plan, architectural plans, Flood Insurance Rate Map and Massachusetts Department of Environmental Protection WPA Form 3-Notice of Intent), the file contained (a) an Interdepartmental Communication from Kristen Guichard, Assistant Town Planner stating that the lot is a conforming lot and that the proposed addition meets rear, side and front yard setback requirements, and (b) an Interdepartmental Communication from the Engineering Department stating that the "The applicant proposes to remove more material than will be filled, thereby providing compensatory storage for the 100-year flood plan" and "The finished floor elevation of the addition appears to be above the 150-ft flood level".

Chairman Wagner asked the Petitioner to explain why he was seeking the Special Permit. The Petitioner explained that the purpose of the Special Permit was to permit the addition of a family room on to his home. Since the addition is within a Floodway Fringe and 363 cubic feet of earth will be removed for the construction, a Special Permit is required and can be granted only if the proposed construction meets the compensation requirements set forth in Section 4.1.8 (and further delineated in Section 4.1.8.1).

Chairman Wagner noted that the file did not contain a decision from the Conservation Commission approving the proposed addition and asked the Petitioner whether this proposed addition had been approved by the Conservation Commission. The Petitioner said that it had been approved, but apparently was inadvertently omitted from the Petition and the file. Upon inquiry from the Board members, Kristen Guichard, Assistant Town Planner, confirmed that the Petitioner's proposed addition had been reviewed and approved by the Conservation Commission.

Member Richard Fallon then reviewed the mandatory findings required by Section 4.1.8.1 of the Zoning Bylaws and inquired from the Town Planner whether the Engineering Department had approved the proposed addition after concluding that the mandatory findings required by Section 4.1.8 of the Zoning Bylaws were satisfied. Mr. Bartl stated that this was correct and that the Planning Department was in turn relying on the Engineering Department's analysis and review.

The Board of Appeals, after considering the materials submitted with the Petition, together with the information developed at the hearing, finds that:

1. The Petitioner seeks a **SPECIAL PERMIT** under Section 4.1.8 of the Zoning Bylaws to allow for construction of an addition within the limits of the Floodway Fringe.
2. The site is located in an R-2 Zoning District.
3. The lot is a conforming lot and the proposed addition to the building meets rear, side and front yard setback requirements.
4. The proposed addition and related construction complies with the mandatory findings set forth in Section 4.1.8.1 of the Zoning Bylaws.

Therefore, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted unanimously to **GRANT** the **SPECIAL PERMIT** subject, however, to the following **conditions**:


- (a) the proposed addition shall be built substantially in accordance with the Plans submitted with the Petition and contained in the file;
- (b) the proposed addition shall have been approved by the Acton Conservation Commission.

Any person aggrieved by the decision may appeal pursuant to Massachusetts General Laws, Chapter 40A, Section 17 within twenty (20) days after this decision is filed with the Acton Town Clerk.

TOWN OF ACTON BOARD OF APPEALS

		
Jonathan Wagner Chairman	Richard Fallon Member	Suzanne Buckmelter Alternate Member

I certify that copies of this decision have been filed with the Acton Town Clerk and Planning Board on Aug 4, 2015.


Cheryl Frazier, Secretary
Board of Appeals

This decision, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the Town Clerk that (1) 20 days have elapsed after the decision has been filed in the office of the Town Clerk and (2) either no appeal has been filed or an appeal has been filed within such time, has been recorded with the Middlesex South County Registry of Deeds and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. Any person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.